

Filed for intro on 02/02/2000
SENATE BILL 3015 By
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HOUSE BILL 2902
By Patton

AN ACT to amend Tennessee Code Annotated, Title 49, Chapter 6, to enact the "Student Protection Act of 2000".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 6, is amended by adding Sections 2 through 10 of this act as a new part.

SECTION 2. This act shall be known and may be cited as the "Student Protection Act of 2000."

SECTION 3. The general assembly finds that sexual harassment of students by students and sexual assaults on students by students have occurred and continue to occur in Tennessee schools, and that many of those instances, particularly of harassment, have not been dealt with seriously by school administrators. The general assembly further finds that failure to properly deal with this situation may subject local education agencies, cities, counties, and the state to legal and financial consequences.

SECTION 4. As used in this act unless the context clearly requires otherwise:

(1) "Sexual assault" means any of those actions proscribed by Section 39-13-502 (Aggravated rape), Section 39-13-503 (Rape), Section 39-13-504 (Aggravated sexual battery), or Section 39-13-505 (Sexual battery).

(2) "Sexual harassment" means any action with sexual intent, sexual speech, or sexual gestures which are unwelcome by the person to whom such action, speech, or gesture is addressed.

SECTION 5. The state board of education, with the assistance of the department of human services, shall develop guidelines and policies for use by local education agencies on sexual assault or sexual harassment, and local boards shall adopt such policies. The policies shall provide procedures by which students may report, and teachers and administrators shall report, instances of student-to-student sexual assault or sexual harassment.

SECTION 6. Sexual harassment and sexual assault policies shall be reviewed every other year by the state board of education, department of human services and the joint oversight committee on education. Policies will be statewide and will coincide with other state and federal regulations. Faculty and staff in school districts shall receive no less than twenty-five (25) hours of training on how to recognize, prevent, and handle cases.

SECTION 7. (a) In cases of sexual assault, the department of human services must be notified immediately. If there is suspicion of sexual assault, the person accused of committing such action must be placed in a controlled environment.

(b) Failure to notify the department shall result in termination of the administrator or staff member who fails to do so. Civil charges or criminal charges also may be filed in such cases.

SECTION 8. (a) Crisis counselors shall be provided in each local education agency through the state department of human services. The counselors shall be apportioned on the basis of one (1) counselor for either each twenty percent (20%) of the total student enrollment or twenty percent (20%) of the total caseload, whichever is greater.

(b) Funding shall be provided within the basic education program. Funding should be allocated on a yearly basis. Each counselor will be an employee of the state. The school districts will not supervise counselors; counselors will be supervised by the department of human services.

(c) Counselors shall report any situation to the department of human services. Once notified, the department of human services shall form an investigative committee to oversee any actions taken by the school district. The committee shall have the power to discipline the person causing the incident.

SECTION 9. (a) Any incident of sexual assault or sexual harassment shall be reported to the appropriate school administrator, in accordance with the guidelines and policy adopted by the local board.

(b) The administrator must report incidents to the counselors and supervisor in each school district. If school faculty or staff suspects possible sexual harassment or sexual assault, the administration must be notified and report to a counselor.

(c) Upon notification of any incident, the administrator must document any actions taken by the teacher or the administrator. The documents must be turned over to the counselor for investigation. Counselors must report any valid incidents to the department of human services.

(1) If the department of human services finds probable reason that school or school districts may be withholding information or failing to report allegations, the school or school districts must be investigated by the department of human services.

(2) Upon investigation by the department of human services of the school or school district, the school or school district will be under state supervision for the duration of the investigation.

(d) Counselors may recommend an inquiry conducted by staff members and administrators from other school districts, if schools fail to fulfill their responsibilities under this act.

(e) School districts shall not try to influence any action taken by counselors or the department of human services.

SECTION 10. (a) If sexual harassment or sexual assault is found to have occurred, both the student harassed or assaulted and the student at fault shall be entitled to counseling. The student at fault shall receive at least twelve (12) weeks of counseling.

(b) If the student at fault is found to be a danger to remain in school, such student shall be suspended and placed in either an alternative school or receive home-bound instruction until it is suitable for that student to return to the regular school environment.

(c) A student who has been abused or harassed has the right to be placed in a different school.

SECTION 11. For the purpose of developing and promulgating rules and regulations and formulating a program, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, including classroom implementation, this act shall take effect January 1, 2001, the public welfare requiring it.